

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No. 1:04-cr-0196-SEB-TAB
	)	
MICHAEL PRICE,	)	- 01
	)	
Defendant.	)	

**REPORT AND RECOMMENDATION**

On May 18, 2021, the Court held a hearing on Petitions for Warrant or Summons for Offender Under Supervision filed on May 6, 2021. Defendant Price appeared in person with his appointed counsel Gwendolyn Beitz. The government appeared by Kathryn Olivier, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Alison Upchurch.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Price of his rights and provided him with a copy of the petition. Defendant Price orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Price admitted Violation No. 3. [Docket No. 6.] Government orally moved to withdraw the remaining violations, which motion was granted by the Court.
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation  
Number**

**Nature of Noncompliance**

- 3            **“The defendant shall register as a sex offender with the appropriate authorities of any state in which he resides, is employed, or attends school.”**

During a search of the offender's residence, officers located an undisclosed email address in which the offender admitted was his (mika7715@gmail.com). Per sex offender registry laws, Mr. Price is required to register all email accounts and social media sites. The Marion County Sheriff's Department confirmed this email address is not registered.

4.        The parties stipulated that:

- (a)       The highest grade of violation is a Grade B violation.
- (b)       Defendant's criminal history category is I.
- (c)       The range of imprisonment applicable upon revocation of supervised release, therefore, is 4 to 10 months' imprisonment.

5.        The parties jointly recommended a sentence of seven (7) months with life-time supervision to follow. The defendant requested placement at FMC Lexington.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of seven (7) months with life-time supervised release to follow. In addition to the mandatory conditions of supervision, the following conditions of supervised release will be imposed:

- 1. You shall report to the probation office in the judicial district to which you are released within 72 hours of release from the custody of the Bureau of Prisons. (Supervised Release cases only)
- 2. You shall report to the probation officer in a manner and frequency directed by the court or probation officer.

3. You shall permit a probation officer to visit you at a reasonable time at home, or another place where the officer may legitimately enter by right or consent, and shall permit confiscation of any contraband observed in plain view of the probation officer.
4. You shall not knowingly leave the judicial district without the permission of the court or probation officer.
5. You shall answer truthfully the inquiries by the probation officer, subject to your 5th Amendment privilege.
6. You shall not meet, communicate, or otherwise interact with a person you know to be engaged, or planning to be engaged, in criminal activity. You shall report any contact with persons you know to be convicted felons to your probation officer within 72 hours of the contact.
7. You shall reside at a location approved by the probation officer and shall notify the probation officer at least 72 hours prior to any planned change in place or circumstances of residence or employment (including, but not limited to, changes in who lives there, job positions, job responsibilities). When prior notification is not possible, you shall notify the probation officer within 72 hours of the change.
8. You shall not own, possess, or have access to a firearm, ammunition, destructive device or dangerous weapon.
9. You shall notify the probation officer within 72 hours of being arrested, charged, or questioned by a law enforcement officer.
10. You shall maintain lawful full time employment, unless excused by the probation officer for schooling, vocational training, or other reasons that prevent lawful employment.
11. You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
12. As directed by the probation officer, you shall notify third parties who may be impacted by the nature of the conduct underlying your current or prior offense(s) of conviction and/or shall permit the probation officer to make such notifications and/or confirm your compliance with this requirement.
13. You shall make a good faith effort to follow instructions of the probation officer necessary to ensure compliance with the conditions of supervision.

Justification: Conditions 1-13 are considered administrative in nature and will enable the probation officer to effectively supervise the offender within the community.

14. You shall participate in a program of treatment for sexual disorders, including periodic polygraph examinations, as directed by the probation officer. The treatment provider should determine the type and timing of such polygraph examinations. The court authorizes the release of the presentence report and available psychological evaluations to the treatment provider, as approved by the probation officer.

15. You shall pay the costs associated with the following imposed conditions of supervised release/probation, to the extent you are financially able to pay: sexual disorder assessment, treatment, and physiological testing, and computer monitoring systems. The probation officer shall determine your ability to pay and any schedule of payment.

Justification: The offender is convicted of Receipt and Possession of Child Pornography in which some of the images depicted minors under the age of 12 years old. Additionally, despite him have been in long-term treatment, he continues to lack impulse control with regard to viewing pornography and fantasies of children; therefore, continued treatment is necessary to modify his behaviors and provide a measure of protection to the community. Treatment will also offer a level of peer support and accountability to the offender.

16. You shall not possess any child pornography or visual depictions of child erotica or nude minors. Any such material found in your possession shall be considered contraband and will be confiscated by the probation officer.

Justification: The offender admits possession of images of minors as young as six years old posed in sexually manners and has concealed his possession of these items while on supervised release. Given this information, as well as concerns with impulse control detailed in this violation report, this condition will assist him in accountability to sobriety from pornography and will discourage further illegal viewing of child pornography.

17. You shall not have unsupervised meetings, activities, or visits, or intentional communications with any minor unless they have been disclosed to the probation officer and approved by the court. You shall not have supervised meetings, activities, visits, or intentional communications with any minor unless they have been approved by the probation officer. Before you may request approval for such meetings, activities, visits, or intentional communications (unsupervised or supervised), you must notify the person(s) having custody of any such minor(s) about the conviction in this case and the fact that you are under supervision.

Justification: Given the offender's history of child pornography, his viewing of child erotica that is focused on girls under the age of 12, and his lack of impulse control while on supervision, this condition is necessary to protect against the victimization of children and the community.

18. You shall submit to the search by the probation officer of your person, vehicle, office/business, residence, and property, including any computer systems and hardware or software systems, electronic devices, telephones, and Internet-enabled devices, including the data contained in any such items, whenever the probation officer has a

reasonable suspicion that a violation of a condition of supervision or other unlawful conduct may have occurred or be underway involving you and that the area(s) to be searched may contain evidence of such violation or conduct. Other law enforcement may assist as necessary. You shall submit to the seizure of contraband found by the probation officer. You shall warn other occupants these locations may be subject to searches.

Justification: Given the offender's conviction for receipt of child pornography, as well as his impulse control issues while on supervised release with regard to viewing child erotica and possession of unauthorized devices, this condition is necessary to hold him accountable for his actions, as well as to provide a protective measure to the community.

19. You shall consent, at the direction of the probation officer, to having installed on your computer(s), telephone(s), electronic devices, and any hardware or software, systems to monitor your use of these items. Monitoring will occur on a random and/or regular basis. You will warn other occupants or users of the existence of the monitoring hardware or software. To promote the effectiveness of this monitoring, you shall disclose in advance all cellular phones, electronic devices, computers, and any hardware or software to the probation officer and may not access or use any undisclosed equipment.

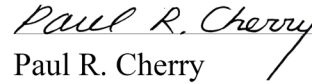
Justification: The offender has a history of possessing unauthorized devices to view child erotica shows his lack of impulse control when it come to Internet use, given his conviction in the instant offense, as well as his violation activities while on supervised release; therefore, this condition will protect the online community from his predatory activities, as well as provide accountability for his actions.

Defendant reviewed the foregoing conditions and they were reviewed by defendant with his attorney. Defendant, on the record, waived reading of the above-noted conditions of supervised release.

The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation. The Magistrate Judge will make a recommendation of placement at FMC Lexington.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: 5/19/2021

  
Paul R. Cherry  
United States Magistrate Judge  
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email generated by the court's ECF system